GOVERNMENT OF MYSORE

FOOD, CIVIL SUPPLIES AND LABOUR DEPARTMENT

Labour Dispute —Industrial Dispute between the Workmen and the Management of Tumkur Brick and Tile works, Tumkur

Award of the Labour Court, Bangalore—published.

Read the following papers:—

(1) Letter No. 182/70-71, dated 27th November 1970 from Sri A. N. Sundara Murthy, Presiding Officer, Labour Court, Bangalore.

BEFORE THE PRESIDING OFFICER LABOUR COURT, BANGALORE

Dated: 27th November 1970.

Present

Presiding Officer : Sri A. N. Sundara Murthy B. A., B. L.,

Reference No. 14 of 1969.

I Part:—Sri. K. B. Seetharamaiah S/o K. Ranganna c/o K. Mallanna, President, Tumkur Workers Union, Tumkur.

Vs.

II Part:—The Management of Tumkur Brick and Tile Works, Tumkur.

Reference :—Government Order No. FCL 854 LLD 68 Dated 18th January 1969.

AWARD

1. The Government of Mysore in their Order No. FCL 854 LLD 68 dated 18th January 1969 have referred an industrial dispute existing between the above named parties to this court for adjudication on the points of dispute noted below:

> "Whether the Managent of M/s Tumkur Brick and Tile Works (Regd) Tumkur, justified in terminating the services of Sri. K. R. Seetharamaiah? If not, is workman Sri. K. R. Seetharamaiah entitled for reinstatement with back wages and continuity of service or any other relief?

2. The first party workman has filled his clain statement as follows:-He was employed with the second party as a clerk for over nine months getting Rs. 60 per month. His services were terminated on 30th January 1968 without any reason or justification and without paying his is salary for January 68. The action of the second party is illegal and opposed to the principles of natural justice. He issued a notice to the second party putting forth his demands. The second party has sent a reply denying the same. He prays that he may be reinstated with full back wages or he may be granted retrenchment compensation and his salary for the month of January 1968 may be ordered to be paid.

3. On behalf of the second party rejoinder is filed as follow The first party workmen was temporary workmen and he only worked for a short period of four months. In the month of January 1968 he has worked only for 11½ days. His work was not satisfactory. He war not regular. He used to come whenever he pleased. He used to take less amounts in sale bill. On 29th December 1967 he has taken Rs. 103 less in one sale bill. When questioned he stated that he would collect and give it and he did not turn up from 12th January 1968 The second party waited for him. He was sent for. But by that time he had issued a notice making false allegations. That notice was replied. The first party workman and another clerk Krishna Murthy joined together and removed articles belonging to the second party. The said Krishna Murthy is also not in service. Some of the books partaining to the sales and accounts of the second party are missing. The second party has no faith in the first party workman. Hence the second party is not willing to reinstate him. The first party workman has to pay a sum of Rs. 103 being the amount collected less in the bill.

4. The following issue are framed.—

1. Whether II Party terminated the service of I Party without holding enquiry and without giving reasonable opportunities?

OR

Whether I Party abandoned his services?

2. Whether I Party was a temporary worker and since he workrd for 4 months is he not entitled to any relief?

OR

Whether I party is entitled to be reinstated with continuity of service and backwages?

3. What relif, if any, is I Party entitled to?

5. In this case it is not disputed that no charge-sheet is issued and no enquiry is held against the first party workmen. It is contended on behalf of the second party that the first party workmen received Rs. 103 less in respect to the bill Ex-1 (a) and when questioned about it and when he was called upon to make good the shortage he did not turn up and he abandoned thes ervice. The first party workmen has denied the same and according to him on the night of 29th January 1968 the father of M. W. 1 Mullikarjunaiah told him that he should not come to work from 30th January 1968 Now it will have to be considered whether the first party workman abandoned his service as stated by the second party or whether his services were terminated as stated by the first party workman. In this case it is admitted that the first party workman though his union has sent a notice to the second party as per Ex.W. 3 and Ex. W. 2 is the copy of the reply sent by the second party in respect of the said notice. Ex. W. 3 is the earliest document. In Ex. W. 3 it is stated that without any reason on 30th January 1968 the second party has terminated his services. In Ex. W. 2 the second party has denied the same and has stated that the first party workman has abondoned his services when he was asked to make good the shortage of Rs. 103 in respect of Ex. M. 1 (a). As laid down in 1963 II LLJ 638 to come to the conclusion whether the first party workman has abondoned his services or not the facts and circumstances of the case will have to be taken into consideration. It is admitted by the first party workman that in respect of the bill Ex- M. 1 (a) he has made a bill for Rs. 230-47 instead of Rs. 333-47 and on that account there was a shortage of Rs. 103 in the said bill. It is not disputed by the first party workman that the second party demanded the first party workman to pay the said amount. The first party workman states that he paid the said sum to the hands of the father of M. W. 1 when he received his pay, in the course of the next month. Of Course he has no document in evidence of it. But he states that the said payment is entered into the accounts of the second party and according to the first party workman if the accounts of the second party had been produced and also if Sri G. V. Mallikarjunaiah, father M. W. 1 had been examined in this case this fact would have been clearly proved and according to him the said Mallikarjunaiah is not examined and the accounts relating to that period had not been produced because if they had been

so produced they would have gone against II Party. In this case even granting that the first party workman had not paid that amount that would not be a serious matter because the first party workman appears to have made a wrong calculation in the bill as per Ex. M. 1 (a) and recovered Rs. 103 less from the party concerned. It was opened to the second party to recover the same either from the said party or from the first party workman In this case on what date the first party workman abandoned his services, the version given in the rejoinder filed by the second party and the version given in the evidence of M W. 1 differ with each other. In the rejoinder it is stated that the first party workman did not turn up for work from 12th January 1968 In the course of the evidence of M. W. 1 he gives a different version. According to him on 29th December 1967 the first party workman had collected Rs. 103 less in respect of the bill Ex. M. 1 (a) and his father asked him to collect the said shortage. Thereafter from 30th December 1967 onwards he did not turn up. This version does not appear to be correct. In this case the attendance register of the second party is produced as per Ex. W. 1, Ex. W. 1 (a) is the relevant entry. From Ex W. 1 (a) it will be seen that from the afternoon of 12th January 1968 the first party workman has not signed the attendance register *i e*, from the afternoon of 12th January 68 he did not attend the factory of the second party. In this case according to the first party workman his services were terminated only from 30th January 1968. If this is the case he has not given proper explanation as to why he failed to put his in tials in the attendance register from the afternoon of 12th January 68. In this case the manner in which Ex. W. 3 is issued to the second party on behalf of the first party workman it is clear that if it was the intention of the first party workman to abandon his services he would not have given a notice as per Ex. W. 3. It is not explained by the second party if the first party workman had really abandoned his service on 30th January 68 why the second party failed to issue a notice to the first party workman stating that he had abandoned his service prior to the receipt of Ex. W. 3. From the facts and circumstances of the case as reffered to above it is clear that the first party workman has not abandoned his service. His services must have been terminated by the second party on the afternoon of 12th January 1968.

6. The next for consideration is whether the second party has lost confidence in the first party workman and hence there is no justification for his reinstatement. In the rejoinder filed on

behalf of the second party several charges made against the first party workman stating that his work was not satisfactory; he was not regular in his attendance; he was collecting less amounts in the sale bills; he had joined hands with another clerk by name Krishna Murthy and had removed articles from the factory of the second party and hence the second party has lost faith in the first party workman. In this case except the error committed by the first party workman in respect of the bill Ex M. 1 (a) collecting Rs. 103 less the other charges are not proved. Even in the course of the evidence of M. W. 1 no evidence is led in respect of the charges made in the rejoinder except in respect of the bill Ex. M. 1 (a) and that certain articles which were stated to be in the store It is not stated in the evidence of M. W. 1 what were the articles that were found missing from the stores and how the first party workman was responsible. During the course of the cross examination of the first party workman no suggestion is put to him stating that he was responsible for removing articles from the stores of the second party along with the said Krishna Murthy In this case is absolutely no evidence to show that the Second party has lost confidence in the first party workman and on that account reinstatement should not be granted.

7. From the evidence available it is clear that the second party is not justified in terminating the services of the first party workman. Hence he is entitled to reinstatement with continuity of service. Taking all the facts and circumstances into consideration I am of the opinion that it would meet with ends of justies if 50% back wages are granted to I Party.

8. In the result I pass an Award directing the second party to reinstat the first party workman in his former post with continuity of service and pay him back wages at 50% from the date of his termination to the date of his reinstatement. No costs.

A. N SUNDARA MURTHY,
Presiding Officer,
Labour Court, Bangalore

ORDER

Bangalore dated the 10th December 1970.

S. O. 69.—WHEREAS by State Government Order No. FCL 854 LLD 68, dated 18th January 1969, the Industrial Dispute between the Workmen and the Management of Tumkur Brick and Tile Works, Tumkur, was referred to the Labour Court, Bangalore for adjudication ;

AND, WHEREAS the Labour Court has submitted to the State Government its award in respect of the said Industrial Dispute;

NOW, THEREFORE, in exercise of the powers conferred by Section 17 of the Industrial Disputes Act, 1947 (Central Act XIV of 1947), the Government of Mysore are pleased to direct the publication of the said award as above, in the *Mysore Gazette*.

[No. FCL 258 LLA 70.]

By Order and in the name of the Governor of Mysore,

ANIRUDHA DESAI,
Under Secy.

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